

**BEFORE THE
ADMINISTRATIVE RULES COMMITTEE
OF THE
NORTH DAKOTA LEGISLATIVE COUNCIL**

N.D. Admin. Code Chapter)	<u>REPORT OF THE</u>
75-02-09, Ratesetting for)	<u>DEPT. OF HUMAN SERVICES</u>
Psychiatric Residential Treatment)	September 12, 2011
Facilities)	
(Pages 66-92))	

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For its report, the North Dakota Department of Human Services states:

1. The proposed amendments to N.D. Admin. Code chapter 75-02-09 are not related to statutory changes made by the Legislative Assembly.
2. These rules are not related to changes in a federal statute or regulation.
3. The Department of Human Services uses direct and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The Department uses a basic mailing list for each rulemaking project that includes the county social service board directors, the regional human service centers, Legal Services offices in North Dakota, all persons who have asked to be on the basic list, and internal circulation within the Department. Additionally, the Department constructs relevant mailing lists for specific rulemaking. The Department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of over 50 locations throughout the state where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing.
The Department conducts public hearings on all substantive rule-making. Oral comments are recorded. Oral comments, as well as

- any written comments that have been received, are summarized and presented to the Department's executive director, together with any response to the comments that may seem appropriate and a re-drafted rule incorporating any changes occasioned by the comments.
4. A public hearing on the proposed rules was held in Bismarck on June 16, 2011. The record was held open until 5:00 p.m. on June 27, 2011, to allow written comments to be submitted. No comments were received. A summary of comments is attached to this report.
 5. The cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$2,018.40.
 6. The proposed rules amend chapter 75-02-09. The following specific changes were made:
 - Section 75-02-09-01. Section 75-02-09-01 is amended to revise the definition of "adjustment factor", to add definitions for "desk rate", "facility", "fair market value", "in-house day", "leave day", and "private pay resident" and to correct references to psychiatric residential treatment facilities.
 - Section 75-02-09-02. Section 75-02-09-02 is amended to correct references to psychiatric residential treatment facilities and to identify impact of failure to file required cost report information.
 - Section 75-02-09-03. Section 75-02-09-03 is amended to correct references to psychiatric residential treatment facilities.
 - Section 75-02-09-04. Section 75-02-09-04 is amended to correct references to psychiatric residential treatment facilities, to identify the effective date of the desk rate and the final rate, to remove a cost report submitted under chapter 75-03-20 as a basis for establishing a rate for certain facilities, to address aggregate

payments, and to address the use of an adjustment factor.

Section 75-02-09-05. Section 75-02-09-05 is amended to correct references to psychiatric residential treatment facilities, and to clarify resident days and leave days.

Section 75-02-09-06. Section 75-02-09-06 is amended to correct references to psychiatric residential treatment facilities, to clarify administration costs, and to correct a typo.

Section 75-02-09-07. Section 75-02-09-07 is amended to correct references to psychiatric residential treatment facilities.

Section 75-02-09-08. Section 75-02-09-08 is amended to correct references to psychiatric residential treatment facilities.

Section 75-02-09-09. Section 75-02-09-09 is amended to correct references to psychiatric residential treatment facilities and clarify language relating to bona fide purchases.

Section 75-02-09-10. Section 75-02-09-10 is amended to correct references to psychiatric residential treatment facilities and to address treatment of interest expense associated with the original borrowing.

Section 75-02-09-11. Section 75-02-09-11 is amended to correct references to psychiatric residential treatment facilities.

Section 75-02-09-12. Section 75-02-09-12 is amended to correct references to psychiatric residential treatment facilities.

Section 75-02-09-13. Section 75-02-09-13 is amended to correct references to psychiatric residential treatment facilities.

Section 75-02-09-14. Section 75-02-09-14 is amended to correct references to psychiatric residential treatment facilities.

Section 75-02-09-15. Section 75-02-09-15 is amended to correct references to psychiatric residential treatment facilities.

Section 75-02-09-16. Section 75-02-09-16 is amended to correct references to psychiatric residential treatment facilities and to address income that may be offset.

Section 75-02-09-17. Section 75-02-09-17 is amended to correct references to psychiatric residential treatment facilities and to clarify language in the rule.

Section 75-02-09-18. Section 75-02-09-18 is amended to correct references to psychiatric residential treatment facilities and to clarify what must be included in a request for reconsideration by a facility of their final rate and provide a deadline for a facility to submit additional documentation if requested by the department.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.
8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.
9. These rules do not have a fiscal impact on state revenues and expenditures, including on any funds controlled by the Department.
10. A constitutional takings assessment was prepared and is attached to this report.
11. These rules were not adopted as emergency (interim final) rules.

Prepared by:

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